

der of business and take up Senate bill No. 31, "An act to amend section 1 of 'an act requiring the proceeds arising from the leasing or renting of county school lands and from sales of timber thereon, to be applied exclusively to educational purposes.'" The Senate refused to suspend.

Senator Buchanan entered a motion to reconsider the vote by which the Senate passed House bill No. 13.

Senator Patton moved to excuse Senator Fleming for the remainder of the day.

Adopted.

Senator Getzendaner called up substitute Senate bill No. 30, relating to the investment of the permanent public school fund of the several counties," which went to the table under a call of the Senate this morning.

Pending the motion to take up,

On motion of Senator Gibbs,

The Senate adjourned till 10 o'clock a. m. to-morrow.

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 5, 1884.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain.

On motion of Senator Getzendaner,

The reading of the journal of yesterday was dispensed with, and

The journal was adopted.

Senator Buchanan offered the following resolution:

Resolved, That the chairman of the Committee on Enrolled Bills be authorized to employ two additional clerks for the balance of the session.

Adopted.

Senator Kleberg presented, by leave, a memorial of the New York, Texas and Mexican railway company.

Referred to Committee on State Affairs.

Senator Buchanan, for Committee on Education, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

Your Committee on Educational Affairs, to whom was referred Senate bill No. 73, entitled "An act to authorize the transfer of bonds of the State of Texas, and of the United States, from the common school fund to the Texas University fund," have considered the same, and a majority of the committee instruct me to report the same back with the recommendation that it do pass.

BUCHANAN, for Committee.

The following messages were received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am instructed to inform the Senate that the House has passed, with amendments, substitute Senate bills Nos. 32 and

44, "An act to establish and maintain a system of public free schools for the State of Texas."

J. W. BOOTH, Chief Clerk.

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am instructed to inform the Senate that the House has passed Senate bill No. 46, "An act to authorize the several county commissioners' courts of this State to provide for more than four terms of the county court, annually, for the transaction of civil and criminal business."

J. W. BOOTH, Chief Clerk.

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am instructed to inform the Senate that the House has acceded to the request of the Senate for the appointment of a free conference committee on the differences between the two houses on House bill No. 1, entitled "An act to amend article 4662, chapter 1, title 95, of the Revised Statutes, as amended and approved May 4, A. D. 1882, and to amend articles 4666 and 4668, chapter 1, title 95, of the Revised Civil Statutes, to reduce taxation for general revenue purposes, to conform the tax laws to the amended Constitution, and to provide for the levy and collection of a tax to maintain a system of free schools under the amended Constitution," and that Messrs. Cochran, Frymier and Chambers have been appointed on said committee on the part of the House.

Respectfully,

J. W. BOOTH, Chief Clerk.

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed by the House to inform the Senate that the House has passed:

Senate bill No. 21, "An act to amend article 420 of the Revised Statutes, so as to authorize incorporated cities and towns to issue bonds to build school houses."

Also, Senate bill No. 33, "An act to provide for the leasing of the school land belonging to the unorganized counties."

I am also directed to inform the Senate that the House has refused to pass Senate bill No. 3, "An act to donate all the public domain in the State of Texas to the public free school fund."

And that the House has also refused to pass Senate bill No. 25, "An act to prevent persons from entering the land of others, and hunting and fishing therein, in certain instances."

Also, Senate bill No. 38, "An act to amend article 4362, title 87, of the Revised Statutes of the State of Texas, so as to require first class roads to be made at least sixty feet wide."

Said bills are herewith returned to the Senate.

Respectfully,

J. W. BOOTH, Chief Clerk.

Senator Patton, chairman of Committee on State Affairs, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

A majority of your Committee on State Affairs, to whom was referred Senate concurrent resolution requesting our Representatives in Congress to give the bill now pending in Congress to prevent the importation of adulterated wines and brandies from Europe and other countries into the United States their earnest support, have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

PATTON, Chairman.

Senator Gibbs moved to suspend the regular order of business and take up substitute for Senate bills Nos. 32 and 44, reported from the House this morning.

Adopted, and

Bill taken up.

Senator Chesley moved that the House amendments to said bill be acted upon seriatim, and

moved that the Senate concur in the first House amendment.

Senator Gibbs moved to amend the motion of Senator Chesley by acting upon the amendments "verbatim et literatim."

Adopted, and

First House amendment concurred in.

Second House amendment concurred in.

Third House amendment concurred in.

Fourth House amendment concurred in by the following vote:

YEAS—14.

Buchanan,	Fowler,	Patton,
Chesley,	Getzendaner,	Randolph,
Cooper,	Johnston of Shelby,	Shannon,
Evans,	Kleberg,	Stratton.
Fleming,	Martin,	

NAYS—7.

Gibbs,	Peacock,	Pope,
Harris,	Perry,	Terrell.
Matlock,		

Fifth House amendment concurred in.

Sixth House amendment concurred in.

Seventh House amendment concurred in.

Eighth House amendment concurred in.

Ninth House amendment concurred in.

Tenth House amendment concurred in.

Eleventh House amendment concurred in.

Twelfth House amendment concurred in.

Thirteenth House amendment concurred in.

Fourteenth House amendment concurred in.

Fifteenth House amendment concurred in.

Sixteenth House amendment concurred in.

The President gave notice of signing the following bills:

House bill No. 13, "An act to provide for the sale of all real estate bid off to the State by collectors of taxes at tax sales, the owners of which have not redeemed the same, approved April 7, 1879, and to extend the right of redemption."

House bill No. 44, "An act to amend article 804, chapter 1, title 18, of the Penal Code."

Senator Gibbs moved to suspend the regular order of business and take up Senate bill No. 33, "An act to provide for the leasing of the school lands belonging to the unorganized counties," reported from the House this morning with House amendments.

Adopted, and

Bill taken up.

Senator Gibbs moved that the Senate refuse to concur in the first House amendment.

Senator Martin moved concur.

Motion lost.

The motion of Senator Gibbs was adopted, and

The Senate refused to concur in the first House amendment.

Senator Gibbs also moved that the Senate refuse to concur in the second House amendment.

No quorum being present,

Senator Peacock moved a call of the Senate.

Motion seconded.

Roll called.

Absent: Senators Evans, Chesley, Fleming and Stratton.

On motion of Senator Peacock,

The call was suspended, and

The motion of Senator Gibbs to refuse to concur in second House amendment was adopted.

Senator Gibbs moved that a committee of free conference be appointed to settle the disagreements of the two houses.

Adopted.

The President appointed as said committee Senators Gibbs, Houston and Martin.

Senator Cooper in the chair.

Senator Peacock moved to suspend the regular order of business and take up Senate bill No. 75, "An act to authorize the transfer of bonds of the State of Texas and of the United States from the common school fund to the Texas university fund."

Adopted, and

Bill taken up.

Senator Peacock moved to suspend the rules and place the bill on its second reading.

Adopted by the following vote:

YEAS—22.

Buchanan,	Harris,	Peacock,
Chesley,	Houston,	Perry,
Collins,	Johnston of Shelby,	Pfeuffer,
Cooper,	Kleberg,	Pope,
Evans,	Martin,	Randolph,
Fleming,	Matlock,	Shannon,
Fowler,	Patton,	Terrell.
Gibbs,		

NAYS—1.

Getzendaner.

Bill read second time.

Senator Matlock offered the following amendment to section 1:

Add, before the word "value," the word "market," and strike out all after the word "transferred."

Senator Houston offered the following substitute for the amendment of Senator Matlock:

Strike out the words "not to exceed the cost of such bonds," and insert the words "not less than the cost of such bonds, and not less than the price at which such bonds can be procured in the market from other sources."

Withdrawn.

Senator Houston offered the following amendment to the amendment of Senator Matlock:

Add to the amendment:

"Provided, that such market value shall not be less than the cost of such bonds to the school fund."

Accepted, and

Senator Matlock's amendment as amended was adopted by the following vote:

YEAS—18.

Collins,	Harris,	Pfeuffer,
Cooper,	Houston,	Pope,
Evans,	Johnston of Shelby,	Randolph,
Fleming,	Matlock,	Shannon,
Fowler,	Patton,	Stratton,
Gibbs,	Perry,	Traylor.

NAYS—6.

Buchanan,	Kleberg,	Peacock,
Getzendaner,	Martin,	Terrell.

The Senate refused to engross the bill by the following vote:

YEAS—7.

Fleming	Matlock,	Stratton,
Harris,	Peacock,	Terrell.
Martin,		

NAYS—17.

Buchanan,	Gibbs,	Pfeuffer,
Collins,	Houston,	Pope,
Cooper,	Johnston of Shelby,	Randolph,
Evans,	Kleberg,	Shannon,
Fowler,	Patton,	Traylor.
Getzendaner,	Perry,	

Senate bill No. 30. "An act regulating the investment of the permanent public school fund of the several counties," was laid before the Senate.

Senator Kleberg moved to indefinitely postpone the consideration of the bill.

No quorum voting.

A call of the Senate was ordered.

Roll called.

Absent: Senators Pope and Johnston of Shelby.

Pending bill went to the table.

Senator Pfeuffer, chairman of the Senate free conference committee to settle the differences on House bill No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate, and Hon. Chas. E. Gibson, Speaker of the House of Representatives:

Your committee of free conference have had under consideration the difference between the two houses on House bill No. 1, entitled "An act to amend article 4662, chapter 1, title 95 of the Revised Statutes, as amended and approved May 4, A. D. 1882, and to amend articles 4666 and 4668, chapter 1, title 95 of the Revised Civil Statutes, to reduce taxation for general revenue purposes, to conform the tax laws to the amended Constitution, and to provide for the levy and collection of a tax to maintain a system of free schools under the amended Constitution," and recommend:

That the Senate amendment of twenty-two and one-half cents ad valorem State tax be amended by striking out "twenty-two and one-half cents," and inserting "seventeen and one-half cents," and that as amended, it be adopted.

PFEUFFER.
HOUSTON,
COLLINS,
Senate Committee.
FRYMIER
COCHRAN,
CHAMBERS,
House Committee.

Senator Stratton moved to adopt the report of the committee.

Adopted by the following vote:

YEAS—16.

Buchanan,	Gibbs,	Pfeuffer,
Collins,	Houston,	Pope,
Evans,	Kleberg,	Randolph,
Fleming,	Martin,	Shannon,
Fowler,	Patton,	Stratton.
Getzendaner,		

NAYS—6.

Chesley,	Matlock,	Perry,
Cooper,	Peacock,	Terrell.
Harris,		

The President laid before the Senate substitute for Senate bills Nos. 12 and 17, "An act to provide for the investment of the permanent public free school fund."

Senator Getzendaner moved to indefinitely postpone the consideration of the bill.

Adopted.

Senate bill No. 21, "An act to amend article 420, of the Revised Statutes, so as to authorize incorporated cities and towns to issue bonds to build public

school houses," was taken up with House amendments.

On motion of Senator Matlock,

The Senate refused to concur in the first House amendment by the following vote:

YEAS—13.

Buchanan,	Houston,	Perry,
Collins,	Kleberg,	Pfeuffer,
Evans,	Martin,	Pope,
Fleming,	Matlock,	Stratton.
Fowler,		

NAYS—8.

Chesley,	Harris,	Shannon,
Cooper,	Peacock,	Terrell.
Getzendaner,	Randolph,	

On motion of Senator Matlock,

The Senate refused to concur in the second House amendment.

Senate bill No. 40, "An act prohibiting persons from fencing lands not owned or controlled by them without the written consent of the owner, and prescribing penalties therefor," was taken up, and,

On motion of Senator Matlock,

Was laid on the table, subject to call.

The President laid before the Senate Senate bill No. 71, "An act to protect the lands of those whose fences shall have been cut, injured or destroyed unlawfully from trespass for six months thereafter."

Said bill went to the table under a call of the Senate, on February 2.

Senator Terrell offered a substitute for the bill.

Senator Houston moved to lay the substitute of Senator Terrell on the table.

Adopted by the following vote:

YEAS—15.

Evans,	Houston,	Perry,
Fleming,	Johnston of Shelby,	Pfeuffer,
Fowler,	Martin,	Pope,
Gibbs,	Matlock,	Randolph,
Harris,	Patton,	Shannon.

NAYS—7.

Buchanan,	Getzendaner,	Stratton,
Chesley,	Kleberg,	Terrell.
Cooper,		

Senator Shannon offered the following amendment:

Add to section 1,

Provided, that this act shall not apply to, or be held to protect, lands enclosed in any fence, which fence enclosed lands not owned or legally controlled by the owner of the fence which has been destroyed.

Adopted.

Senator Matlock offered the following amendment:

Amend the bill as follows:

Strike out the amendment that provides that no right of action shall exist unless it be shown that the trespassing stock was driven on such land by the owner, or by some one acting from his direction.

Adopted.

Senator Matlock moved the previous question on the engrossment of the bill.

Motion seconded.

Main question ordered, and

Bill ordered engrossed.

Senator Stratton moved to suspend the rules and place the bill on its third reading.

Lost by the following vote:

YEAS—10.

Fleming,	Martin,	Pope,
Harris,	Matlock,	Shannon,
Houston,	Pfeuffer,	Stratton.
Kleberg,		

NAYS—11.

Buchanan,	Fowler,	Perry,
Chelsey,	Getzendaner,	Randolph,
Cooper,	Johnston of Shelby,	Terrell.
Evans,	Patton,	

Senate bill No. 22, "An act to provide for immediate and temporary relief against the unlawful cutting of fences, and making an appropriation therefor," was taken up.

On motion of Senator Houston,

The bill was ordered to lie upon the table.

The President laid before the Senate Senate bill No. 31, "An act to amend section 1 of 'an act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes,' approved April 25, 1879."

Bill read second time and ordered engrossed.

Senator Pfeuffer moved to suspend the rules to place the bill on its third reading.

On a call of the roll, no quorum being present,

On motion of Senator Matlock,

The Senate adjourned until 3 o'clock p. m.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

Lieutenant-Governor Martin in the chair.

Roll called.

Quorum present.

The following message was received from the House:

HOUSE OF REPRESENTATIVES.

AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed to inform the Senate that the House has adopted the report of the second committee of free conference on the differences between the two houses on substitute House bills Nos. 50 and 84, entitled "An act to prohibit the unlawful fencing or enclosing, or keeping enclosed, of the lands of another, and of the public, public school, university and asylum lands of the State of Texas, and to provide a penalty therefor."

And that the House has also adopted the report of the committee of free conference on the differences between the two houses on House bill No. 1, "An act to amend article 4662, chapter 1, title 95, of the Revised Statutes, as amended and approved May 4, A. D. 1882, and to amend articles 4666 and 4668, chapter 1, title 95, of the Revised Civil Statutes, to reduce taxation for general revenue purposes, to conform the tax laws to the amended Constitution, and to provide for the levy and collection of a tax to maintain a system of free schools under the amended Constitution."

Respectfully,

J. W. BOOTH, Chief Clerk.

Senator Gooch, chairman of the second Senate free conference committee on House bills Nos. 50 and 84, submitted the following report:

COMMITTEE ROOM,

AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate, and Hon. Chas. R. Gibson, Speaker of the House of Representatives:

Your committee of free conference have had under consider-

ation the differences between the two houses on substitute House bills Nos. 50 and 84, entitled "An act to prohibit the unlawful fencing or enclosing, or keeping enclosed, of the lands of another, and of the public, public school, university and asylum lands of the State of Texas, and to provide a penalty therefor."

Your free conference committee recommend:

First. That the Senate recede from all its amendments to the House bill, as it passed, except the amendment striking out all after the word "years," in line 6, down to and including the word "them," in line 8, in section 1, and insert in lieu thereof the following words: "Within the meaning of persons, as used in this act, is included every man managing or controlling for a corporation, firm or joint stock company, as well as any and every individual or person who shall aid, assist or direct in the violation of this act," and that this amendment be concurred in.

Second. We recommend that the House concur in the Senate amendments added to the bill, relating to State lands, public school, university and asylum lands, except section 6, relating to fencing these lands, and that the House bill remain as it is in that regard, and except also, sections called 11 and 12, relating to powers of the State Land Board and the appropriation, and that said sections 6, 11 and 12, of the Senate be stricken out.

Third. We recommend that the following sections be added to the bill: Sections 4, 5 and 6:

SEC. 4. This act shall not apply to persons who have heretofore settled upon land not their own, where the enclosure is two hundred acres or less, and where the principal pursuit of such person upon the land is that of agriculture.

(For sections 5 and 6 refer to the main bill, herein presented, showing how it will read as amended.)

Fourth. We recommend that the caption of the bill be amended by inserting after the words "of the State of Texas," the following words: "and to prevent the herding, or loose herding, or detention of stock upon the lands of the State, the public schools, university and asylums, and to provide penalties for the violation of this act."

Fifth. We recommend that the sections be numbered in consecutive order, and that the repealing and emergency clauses become the last two sections.

Sixth. We recommend that the whole bill, after being amended, shall read as follows:

An act to prohibit the unlawful fencing or enclosing, or keeping enclosed, of the lands of another, and of the public, public school, university, and asylum lands of the State of Texas, and to prevent the herding, or loose herding or detention of stock upon the lands of the State, the public schools, university, and asylums, and to provide penalties for the violation of this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That if any person or corporation shall knowingly make, or permit to remain standing, any fence on or around the land of another, or the public, public school, university or asylum lands, of this State, without the written consent of the owner thereof, duly acknowledged, or a duly executed lease of such land from the proper authority, in case of public, public school, university or asylum lands, as the case may be, duly recorded in the county where the land lies, or to which it is attached for judicial purposes, he shall be deemed guilty of a misdemeanor, and upon conviction therefor fined in any sum not less than fifty cents nor more than one dollar per acre per month for each month so enclosed, or fined and imprisoned in the county jail for any period not over two years. Within the meaning of person, as used in this act, is included every man managing or controlling for a corporation, firm, or joint stock company, and any and every individual or person who shall aid, assist or direct in the violation of this act. Half of all fines collected under the provisions of this act shall be paid to the person or persons informing on the person or corporation who shall unlawfully enclose any land; provided, that each three months said land is so enclosed shall constitute a separate offense. A fence within the meaning of this act is any structure of wood, wire, or both, or any other material, intended to prevent the passage of cattle, horses, mules, asses, sheep, goats, or hogs. Where persons or corporations have unlawfully fenced land belonging to the State, or public school, university, or asylum lands, it shall be the duty of the Attorney-General, either in person or by proxy, to institute proceedings in the name of the State against any person or corporation so unlawfully enclosing said lands; and the expenses incurred in employing counsel to prosecute such cases shall be deducted from the fine or fines collected from any person or corporation violating

the provisions of this act, the balance to be paid to the und to which it belongs.

SEC. 2. All persons or corporations who have already fenced lands within the prohibition of this act shall have six months from and after the time that this act goes into effect to conform to the provisions thereof; provided, that the provisions of this act shall not apply to any person or corporation who has heretofore or may hereafter, in good faith, fence land not their own.

SEC. 3. In all prosecution under this act, the provisions of articles 699 and 700 of the Penal Code of the State of Texas shall apply.

SEC. 4. This act shall not apply to persons who have heretofore settled upon lands not their own, where the enclosure is two hundred acres or less, and where the principal pursuit of such person upon the land is that of agriculture.

SEC. 5. That any person who owns or controls land surrounding land of another, may fence his own land, by fencing the inner boundaries of his survey, and leaving a way or lane sixty feet wide (unobstructed by gates, or otherwise) to the outer boundaries of the surrounding land, at such place as the owner or agent of the inner survey may demand; and providing two gates at such places on the inner and outer fences as the owner of the inner survey shall demand; and they shall be kept in condition convenient for opening and closing by the owner of the fence; or if no demand is made, the opening and gates shall be at such place as the owner of the outer survey may select. When the way or lane and gates are once located, they shall not be changed, except by consent of the owners of both the inner and outer surveys.

SEC. 6. It shall be unlawful for any person, firm or corporation to herd, or aid in herding, or cause to be herded, loose herded or detained for grazing by line riding, any cattle, horses, mules, asses, sheep or goats, on any vacant public domain, school, university or asylum lands within this State, unless the same shall have been leased from the proper authority; provided, that this section of this act shall not apply to persons herding such stock, in gathering for, or carrying to and from market, or in moving the same from one section of the country to another.

SEC. 7. Any person who shall knowingly violate any of the provisions in section 6 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined one hundred dollars for each year or part of a year, for each section, or part of a section (meaning six hundred and forty acres of land or less, whether surveyed in sections or not), which shall be used contrary to the provisions of this act.

SEC. 8. The owner of the cattle, horses or sheep shall be liable to the State in the sum of one hundred dollars for each year, or part of a year, for each six hundred and forty acres of land, or tract of less size, that may be used contrary to the provisions of this act, which may be recovered in a civil action, without affecting the criminal prosecutions prescribed herein.

SEC. 9. Where such unleased land is now herded upon contrary to the provisions of this act, belongs to the unappropriated public domain, public school, university or asylum lands, it shall be a bar to the civil and criminal prosecution hereinbefore provided for for any violation prior to January 1, 1885, if the violator of this act, or the owner of the cattle, horses or sheep shall, prior to the first day of September, A. D. 1884, pay into the State treasury thirty-two dollars for each section of 640 acres (or tract of less size) used contrary to this act, for the benefit of the fund to which the land belongs.

SEC. 10. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

SEC. 11. The fact that there is no law making it penal to fence the lands of another or the lands of the State, and that large quantities of land are so fenced, creates an imperative public necessity that the rule requiring bills to be read on three several days in each house shall be suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

A. T. MCKINNEY,
A. M. TAYLOR,
Of the House Committee.

We have grave doubts as to the constitutionality of sections 1 and 5 of this act, but we defer to the views of the members of the House committee; and we are more constrained to do so to secure the passage of other important and needed legislation. We join in the report.

JNO. YOUNG GOOCH,
JNO. H. TRAYLOR,
Of Senate Committee.

I respectfully dissent from the majority report, because the section in the bill recommended providing for private roads clear of obstruction, in addition to other passways across the land of the person enclosing land of another, is in open violation of the Constitution, destructive of property rights, and is class legislation.

KLEBERG.

I beg leave to dissent from the opinion of the majority of the committee in their action in adopting that part of the Senate amendments providing for a penalty for herding upon the public school, university or asylum lands.

The policy of our government has ever been to foster the stock interest in the west and northwest portions of the State, but this bill, if adopted in the language proposed by your committee, will result in a decline in values of stock of all kinds, a general exodus of small stock men from northwest Texas, and a detriment in general to all that part of the State.

I cannot account for so short sighted a policy. Every man who knows anything of the practical workings of the stock business, will admit that a law making it penal to herd upon unleased or unsold school lands in the Panhandle or adjoining counties thereto, is equivalent to a general herd law to that country.

But we are met at the threshold with this sort of argument, that if it is not made penal the stockmen's cattle will eat the children's grass without pay.

There are only about 12,000,000 acres of these lands in the sixty-seven counties I represent, and it is separated and spread over the district in small tracts, so as to render it unsafe at all times for a stockman to herd without violating this law, which inconvenience will force him to leave the country or be a continual violator of the law.

No one will admit that the State can afford to strike from its calendar of wealth and resources this gigantic branch of business which pays nearly one-fifth of the general revenues of the State, for the few paitry dollars attempted by this part of the law to be thrown into the school fund.

The State should guard every interest alike, and if one can not be fostered without crushing out another, let it alone until the matter can be adjusted equally and fairly between them.

The flimsy argument that the Legislature is the guardian of this great trust of the children of Texas, is met and sufficiently demolished by a like proposition, that we are also the guardians of the public interest, which is identical with and inseparable from the school interest.

Are we to heap distress and want upon the people of a particular portion of the State, reduce the general revenues of the State for the purpose of getting a few dollars out of the grass of the school lands? I say no! Never will I give my consent to such a measure.

I have heretofore hoped that the peace and prosperity of the State would be revived, by a proper solution of the present fence cutting troubles.

The Representative who can rise above personal preferences to reach this great end, is the true patriot and servant of the people.

I cannot sit supinely by and see the people whom I represent sent to destruction by this unjust and unwise piece of legislation, in order to settle the difference between the two branches of the Legislature upon this bill.

I am of the opinion that fence cutting is far preferable to a herd law, in my district, and I propose to vote against this bill in its present shape, notwithstanding the result may be a failure to effect the much needed legislation for other portions of the State.

I therefore recommend that the majority report be rejected, and a new committee be appointed from each House to adjust the differences upon this bill.

All of which is respectfully submitted.

J. N. BROWNING.

Senator Gooch moved the adoption of the majority free conference report just read.

The majority report was adopted by the following vote:

YEAS—14.

Buchanan,	Gooch,	Randolph,
Cooper,	Harris,	Shannon,
Fowler,	Patton,	Terrell,
Getzendaner,	Perry,	Traylor.
Gibbs,	Pfeuffer,	

NAYS—11.

Chesley,	Johnston of Shelby,	Peacock,
Collins,	Kleberg,	Pope,
Fleming,	Martin,	Stratton,
Houston,	Matlock,	

The following reasons were asked to be printed in the journal, explaining votes on adopting the majority report of the free conference committee on substitute for House bills Nos. 50 and 84, relating to enclosing of the lands of another:

The bill, as reported by the conference committee, does not suit me. I have many and serious objections to it, but though my amendment to the bill, which requires the Governor to see to its enforcement in the unorganized counties, is stricken from it, it is better than nothing, and I vote "yea."

TERRELL.

I vote against this bill and report of committee:

1. Because it puts a herd law in operation in one-third of the State, against the protest of nine-tenths of the population of that country, as evidenced by hundreds of petitions presented to this Senate.

2. Because it seeks to enforce the lease of the school and asylum lands by penal statutes, a policy that has never been enforced in any civilized country; a policy that will be as odious to the people of Texas as any of the offensive laws passed by the notorious Twelfth Legislature.

3. Because it will result in dividing the stockmen in north-west and western Texas from the State and especially men of small means, as under the competitive system of leasing lands in unlimited quantities, wealthy syndicates and corporations will outbid them, and thus drive the poor men from the State.

4. Because the committee admit that some of the provisions of the bill are unconstitutional.

5. Because instead of tending to suppress the troubles which already afflict the country it will array different classes of people against each other, encourage lawlessness and crime, and invite the people in that section of the State (the law being unconstitutional) to openly violate it.

6. The open attack upon property rights by this bill in violation of the Constitution will be more disastrous to the State than the fence cutters.

7. It will, if rigidly enforced, destroy more taxable values, more property, ruin more peaceable, law abiding citizens than the destruction of fences.

J. R. FLEMING.

I vote "no:"

1. Because the bill is plainly unconstitutional.

2. Having used every effort to protect, by proper legislation, the small land owner from injustice at the hands of large land owners, and to punish alike the individual who fences land not his own and the destroyer of fences, I do not feel at this late hour of the session in a humor to be forced to vote for a measure which will be laughed at by the courts and afford no remedy to those whom it is sought to protect.

POPE.

I vote "aye," because I believe that a defeat of the bill would result in obstructing all necessary legislation for the prevention of fence cutting. It is in a spirit of compromise, the House having refused to pass the felony bill until favorable action is had on this bill.

GIBBS.

I vote against this bill—

1. Because it is unconstitutional and is no violation of article 14, section 1, of the Constitution of the United States, and section 19, article 1, of the Constitution of the State of Texas, wherein it seeks to deprive persons of their property without due process of law and without compensation therefor.

2. It discriminates in favor of one class of citizens against another.

3. The effect of this bill will be to discriminate in favor of corporations, non-residents and fence cutters against the stock interest of this State.

4. I cannot assist in the passage of this bill in order to gratify the fence cutter. It is wrong in principle, has no precedent in any civilized government; and proposes to declare a large and respectable class of the best citizens of the State criminals, because they have, by permission of the laws now on the statutes of the State, enclosed lands of another. The law will never be sustained by any court in the land or respected by any citizen. I will not vote for a law that I know

is unconstitutional, and declare a large part of my constituents criminals, in order to gratify those who demand that we shall pass this bill under a threat that unless such a bill is passed, no law making fence cutting a felony shall pass at this session. The bill is a weak attempt to invent an apology for the wanton destruction of property in this State. The cry that the lands of fence cutters have been fenced, and that they have been injured thereby, is a farce and is full of falsehood. The fence cutter owns no land and wants none. There is no reasonable demand for the passage of this bill, and I cannot vote for it. This bill will prove a bonanza for the land men of the State, and if they had framed it they could not have secured a more favorable law to their interest.

MATLOCK.

I vote "nay" because I believe that that portion of section 5 that undertakes to condemn a right of way over the land of another to an interior unused and unoccupied tract of land is unconstitutional, and that it cannot in any sense be said to be a way of necessity, for the obvious reason that the owner of the interior tract has no use for such right of way, and therefore this is an attempt at condemnation in advance of the necessity; furthermore, no person or power has constitutional authority to assert a right of way of necessity except the owner of the dominant estate. The section also condemns one man's land to the use of another without a compensation.

CHESLEY.

On the adoption of the majority report of the conference committee of the two houses on House bills Nos. 50 and 84, regulating the enclosure of lands, I voted "no"—

1. Because, the bill of rights and Constitution stood squarely in the way of an affirmative vote.

2. It threw an empty tub to the popular whale. It disregarded property rights and when in representative governments property rights are disregarded, a disregard of personal liberty inevitably follows.

3. It accorded to the interior man no protection against what is said to be the aggressions of the enclosing pasture man.

4. It provided a sixty foot pass-way from the line of the interior man to the outer line of the surrounding owner, while it left that outer line to be enclosed either by "gate or otherwise." It brought the small man to the line of the large or surrounding owner, while it barred his passage across that line. It is a delusion and a snare—it simply leads the small man to a dead line—for it leaves the right of the small man's crossing the outer line uncertain. It fences the small man from water and the free use of his property. It is unjust alike to the large and small man. It is a politic dodge of an issue which should have been met with comprehensive legislation. It is unjust alike to the large and small man, and tramples the rights both under the demands of expediency.

A. E. STRATTON, JR.

Senate bill No. 31, "An act to amend section 1 of 'an act requiring the proceeds arising from the leasing or renting of county school lands, and from sale of timber thereon, to be applied exclusively to educational purposes,' passed at the regular session of the Eighteenth Legislature," was taken up as unfinished business of the morning session,

The question being the suspension of the rule to place bill on its third reading,

The motion was adopted by the following vote:

YEAS—23.

Buchanan,	Gibbs,	Patton,
Chesley,	Gooch,	Peacock,
Collins,	Harris,	Perry,
Cooper,	Houston,	Pfeiffer,
Evans,	Johnston of Shelby,	Randolph,
Fleming,	Kleburg,	Shannon,
Fowler,	Martin,	Terrell.
Getzendaner,	Matlock,	

NAYS—1.

Traylor.

Bill read third time and passed by the following vote:

YEAS—19.

Buchanan,
Chesley,
Cooper,
Evans,
Fleming,
Fowler,
Getzendaner,

Gibbs,
Gooch,
Harris,
Houston,
Johnston of Shelby,
Kleberg,

Martin,
Patton,
Pfeuffer,
Randolph,
Shannon,
Terrell.

NAYS—3.

Collins,

Matlock,

Peacock.

On motion of Senator Houston,
The Senate adjourned till 7:30 to-night.

EVENING SESSION.

Senate met pursuant to adjournment.
The President in the chair.
Roll called.

Quorum present.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

Your Committee on Engrossed Bills, have carefully examined and compared Senate bill No. 31, being "An act to amend section 1 of 'an act requiring the proceeds arising from the leasing or renting of county school land, and from sales of timber thereon, to be applied exclusively to educational purposes,' etc., and find the same correctly engrossed.

MARTIN, Chairman.

By unanimous consent, Senator Buchanan withdrew his motion, entered last week, to reconsider the vote by which House bill No. 13 was passed.

Senator Gooch moved to excuse Senators Farrar and Matlock until to-morrow.

Adopted.

Senator Pfeuffer moved that Senator Shannon be excused indefinitely after to-morrow.

Withdrawn.

Senator Traylor introduced the following resolution:

Resolved, that the Secretary of the Senate and first assistant Secretary be allowed five dollars each per day, for not more than fifteen days, to index the journals of the Senate, and that they be authorized to have bound one copy of the journals for each Senator and President of the Senate, and mailed to the proper address, to be paid out of the contingent fund.

On motion of Senator Collins,

The Senate took a recess of twenty minutes.

Senate called to order.

The following messages were received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed to inform the Senate that the House has passed the substitute for Senate bill No. 29, "An act to authorize the owner or agent to render land for taxes due for the years 1871 to 1876, inclusive, and providing for the assessment and collection of taxes due thereon."

J. W. BOOTH, Chief Clerk.

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed to inform the Senate that the House has concurred in the Senate amendment to substitute House bills Nos.

2, 8 and 9, "An act to prescribe the punishment for the wanton and wilful cutting, injury or destroying fences."

Respectfully,

J. W. BOOTH, Chief Clerk.

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed to inform the Senate that the House refuses to recede from its amendments to Senate bill No. 21, "An act to amend article 420 of the Revised Statutes so as to authorize incorporated cities and towns to issue bonds to build public school houses," and that a committee of conference is requested, and that on the part of the House Messrs. Labatt, Rushing and Moursund have been appointed.

Respectfully,

J. W. BOOTH, Chief Clerk.

The President appointed Senators Buchanan, Houston and Gooch as said conference committee on the part of the Senate.

Senator Pfeuffer moved that the regular order of business be suspended to take up Senate concurrent resolution, requesting our Representatives in Congress to give the bill now pending in Congress, to prevent the importation of adulterated wines and brandies from Europe and other countries into the United States, their earnest support.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 5, 1884.

Hon. Marion Martin, President of the Senate:

I am directed to inform the Senate that the House has passed House bill No. 71, "An act to restrict the right and power of private corporations to acquire title to land." Passed by a two-thirds vote. Ayes, 71, nays, 2.

J. W. BOOTH, Chief Clerk.

The President laid the Senate House bill No. 71, just reported from the House,

Bill taken up, read, and

On motion of Senator Collins,

Referred to Judiciary Committee No. 2.

The concurrent resolution of Senator Pfeuffer to request our Representatives in Congress to use their influence to get through that body the pending bills to prevent the adulteration of wines and brandies shipped to the United States from other countries, was taken up.

Senator Houston offered the following amendment:

"Also, to prevent, if possible, the importation of adulterated canned goods, sausages and other articles of goods."

Adopted.

Senator Kleberg offered the following amendment to the amendment of Senator Houston:

Amend by including pork in the prohibition.

Accepted.

Senator Gooch offered the following amendment to the amendment of Senator Houston:

Amend the amendment by inserting before sausages the word "bologna," and second, add to the amendment the words "limberger cheese and sauer kraut."

Accepted.

Senator Johnston of Shelby offered the following amendment to the amendment of Senator Kleberg.

Amend the amendment of the Senator from DeWitt, accepted, by inserting the word "razor-back" before the words "hog or pork."

Accepted.

Senator Kleberg moved the previous question on the amendments and bill.

Motion seconded, and main question ordered.

The amendment of Senator Houston, as amended, was adopted.

The resolution, as amended, was passed.

Senator Houston moved to reconsider the vote adopting the resolution.

Adopted.

Senator Houston moved to reconsider the vote adopting the amendments.

Adopted.

Senator Houston moved to strike out the amendments adopted as part of the resolution.

Adopted, and amendments stricken out.

On motion of Senator Houston,

The original resolution was adopted.

On motion of Senator Houston,

The Senate adjourned till 9:30 to-morrow.

TWENTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 6, 1884.

Senate met pursuant to adjournment.

Lieutenant Governor Martin in the chair.

Roll called.

Quorum present.

Prayer by the chaplain.

On motion of Senator Kleberg,

The reading of the journal of yesterday was dispensed with, and

The journal was adopted.

Senator Patton, chairman of Committee on State Affairs, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 6, 1884.

Hon. Marion Martin, President of the Senate:

Your Committee on State Affairs, to whom was referred Senate petition No. 19, entitled "Memorial of the New York, Texas and Mexican Railway Company, asking the right to sue the State," direct me to report the same back to the Senate, with the request that it lie upon the table for the reasons that the said memorial only came into the hands of the committee on the twenty-fifth of this month, and they have not had time to examine into the merits of the same, and the adjournment of the Legislature to-day renders it impossible to enact any law on this subject.

All of which is respectfully submitted.

PATTON, Chairman.

Bill read the first time.

Senator Patton offered the following resolution:

Resolved, that the Sergeant-at-Arms and one porter be retained in service for ten days after adjournment, and that they be paid out of the contingent fund.

Adopted.

The following message was received from his Excellency, the Governor:

EXECUTIVE OFFICE,
AUSTIN, February 6, 1884.

To the Senate:

I respectfully request the consent of the Senate to the appointment of notaries public in the various counties named in accompanying papers; and also to the appointment of Walter

Tips, Geo. W. Sampson, Dr. Wm. Howard and R. T. Hill, to be trustees of the deaf and dumb asylum.

JNO. IRELAND, Governor.

Austin county (9 vacancies)—Wm. Wennenweser, John D. Harvey.

Angelina county—Dan Williams.

Brown county—Thos. B. Harris, J. H. Henderson, Chas. Rogan.

Burnet county—Geo. A. Branden, M. J. McSween, Geo. R. L. Tuberville, T. A. Chamberlain, James D. Riley.

Bosque county—J. P. Grace, R. G. Gaines, W. T. Archibald.

Brazoria county—Geo. W. Mechem, Sr.

Bell county—(no vacancies).

Brazos county—R. S. Gould, Jr., Wm. L. Orr.

Bowie county—J. M. Harrell.

Caldwell county—A. B. Storey.

Clay county—R. D. Wellborne, J. B. Monday, J. C. Chea-nutt, J. B. Hopkins, F. Dudlugh.

Comanche county—W. O. Hamilton, Geo. Conway, William. Carnes.

Cass county—J. F. Christian.

Crosby county—A. J. Smith.

Collin county—H. L. Sides, Hugh Gearheart, M. W. Johnson.

Dimmit county—F. Vandervoort.

Dallas county (no vacancies).

DeWitt county—Henry Kelley.

El Paso county—W. J. Fewell.

Encinal county—W. R. Jones.

Erath county—C. J. Shapard.

Fannin county—Thomas P. Baker.

Gonzales county—Jas. L. Cunningham.

Grimes county—James A. Skelton.

Hill county—W. H. Marsh, F. M. Bush.

Jack county—Walter Somervell.

Jackson county—J. S. McNutt, Henry T. Chivers.

Jones county—H. H. Thorp.

Johnson county—P. H. Goodloe.

Jefferson county—P. A. Work, H. W. Greer, J. P. Work.

Kinney county—Solon Stewart, Robert Wulffing.

Kaufman county—John S. Griffiths.

Lampasas county—William Oliver, E. M. Langcope.

LaSalle county—Charles S. Miller, F. E. Thompson.

Llano county—Jas. Flack, A. W. Murray.

Lavaca county—Lewis Bishop.

Limestone county—G. A. Ogilvie.

McLennan county—E. M. Ewing.

Montague county—Wm. Yarbrough, A. J. Carpenter, C. M. Waid.

Mitchell county—J. H. Morrison, J. B. Lucas, G. H. McGinnis, R. L. Boren, D. F. Bentley.

Marion county—D. B. Hale, W. F. J. Graham.

Montgomery county—L. Burns.

Nacogdoches county—W. Martin.

Nueces county—Royal Givens, Delmas Givens.

Pecos county—W. F. Mosley, E. Freidenhaus.

Presidio county—James Stewart.

Reeves county—R. L. Harrell, J. C. Cox, R. D. Gage, Frank Ewing.

Robertson county—W. D. Henson, J. J. Kendrick.

Rusk county—N. B. Morris, James M. Crane.

Sabine county—W. W. Weatherred.

Smith county—W. E. Roberts.

Travis county—Thos. H. Wheelless, Jas. M. Harris, (in place of A. E. Lane, resigned).

Tom Green county—W. S. Cunningham.

Tyler county—J. H. Kirby.

Tarrant county—A. W. Hutchins.

Taylor county—F. B. Huston, Isaac N. Failor.

Upshur county—J. P. Ford, J. M. Glasco.

Wichita county—N. Henderson, W. M. Food.

Williamson county—Thos. M. Metcalf.

Wood county—M. D. Lankford, L. C. Clifton.

Webb county—John H. Calais.

On motion of Senator Houston,

The Senate went into executive session to consider the appointments made by the Governor in the message just read.